



DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 407 and 457

[Docket ID FCIC-21-0005]

RIN 0563-AC74

Area Risk Protection Insurance Regulations and Common Crop Insurance Policy

Basic Provisions

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Area Risk Protection Insurance (ARPI) Regulations and Common Crop Insurance Policy (CCIP), Basic Provisions. The intended effect of this action is to improve unit provisions and organic farming practice provisions, revise the definition of veteran farmer or rancher, and clarify provisions. The changes to the policy made in this rule are applicable for the 2022 and succeeding crop years for crops with a contract change date on or after June 30, 2021. For all other crops, the changes to the policy made in this rule are applicable for the 2023 and succeeding crop years.

DATES: *Effective date:* This final rule is effective June 30, 2021.

Comment date: We will consider comments that we receive by the close of business [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FCIC prefers that you submit

comments electronically through the Federal eRulemaking Portal:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and search for Docket ID FCIC-21-0005. Follow the instructions for submitting comments.
- Mail: Director, Product Administration and Standards Division, Risk Management Agency (RMA), US Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133-6205. In your comment, specify docket ID FCIC-21-0005.

Comments will be available for viewing online at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7829; or email francie.tolle@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 or 844-433-2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America’s agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. The Risk Management Agency (RMA) administers the FCIC regulations. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIPs) sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC’s vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if

applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the ARPI Basic Provisions (7 CFR 407) and the CCIP Basic Provisions (7 CFR 457.8). The changes to the policy made in this rule are applicable for the 2022 and succeeding crop years for crops with a contract change date on or after June 30, 2021. For all other crops, the changes to the policy made in this rule are applicable for the 2023 and succeeding crop years. These changes resulted from public comments received on two final rules with request for comment.

Comments Related to 85 FR 38749-38760 Published June 29, 2020

The first final rule with request for comment was published in the *Federal Register* on June 29, 2020, (85 FR 38749-38760) amending the ARPI Regulations; CCIP Basic Provisions; and the Common Crop Insurance Regulations, Coarse Grains Crop Insurance Provisions (Coarse Grains Crop Provisions). Comments were received from five commenters. Three comments were from individuals, whose comments were unrelated to the rule. One comment was from an insurance company. The last comment was from a trade association. FCIC addressed editorial comments in the final rule with request for comment published in the *Federal Register* on November 30, 2020, (85 FR 76420-76428). The public comments and FCIC responses regarding the Coarse Grains Crop Provisions will be addressed in a future final rule. The non-editorial public comments received regarding the June 29, 2020, final rule with request for comment related to the ARPI Basic Provisions and CCIP Basic Provisions and FCIC's responses to the comments are as follows:

Comment: In the definition of "second crop" a commenter questioned whether the 60 percent actual production history (APH) penalty to the first insured crop described in section 3(i) would be applicable when a cover crop or volunteer crop is hayed, grazed,

silaged, etc.

Response: No changes were made to the APH penalty within the June 29, 2020 rule; therefore, no additional changes will be made.

Comment: A commenter asked for the term “otherwise harvested” to be defined as it is a key term used in first and second crop provisions and determinations in prevented planting situations. Currently, the term is defined in the Prevented Planting Standards Handbook (PPSH), but this definition has changed in the past and is subject to change again unless codified in the Rule.

Response: FCIC does not agree and will not add the definition to the CCIP Basic Provisions. The PPSH defines “otherwise harvested” as “harvested for reasons other than for haying, grazing, or cutting for silage, haylage, or baleage. This could be for grain, seed, etc.” No change will be made.

Comment: A commenter suggested clarifying the double cropping provisions and the example in section 15(h)(7) as it is unclear as to whether there is a precedence based on which of the two crops under different plans of insurance is the first insured crop.

Response: FCIC understands the confusion when considering two crops under different plans of insurance and needing to determine which crop is the first insured crop. As explained in the June 29, 2020, final rule, the change to section 15(h)(7) was intended to address the provisions that each insured crop is required to follow to determine if the double cropping requirements have been met. Given the nature of the issues that can come up if the two crops are under different plans, FCIC is working with stakeholders to determine what change is appropriate. Any related change to the regulation will be in a future rulemaking.

Comment: A commenter had concerns regarding the phrase “than determined in 15(i)” in section 15(i)(3). As item 15(i)(3) is situated within 15(i), it would be clearer if the specific item(s) of this subsection was referenced.

Response: FCIC agrees and has clarified this section is referencing the introductory paragraph of section 15(i).

Comment: Two commenters recommended removing the requirement of a notice of loss to be filed in the quality loss provisions contained in section 36(a)(3).

Response: FCIC does not agree with the recommended change to remove the notice of loss provisions. The Quality Loss Option allows insureds to replace post-quality adjustment production amounts with pre-quality adjustment production amounts in their APH database for a given crop year. Pre-quality adjustment and post-quality adjustment production amounts are entry items on the production worksheet that is completed by the AIP during the loss adjustment process. To maintain program integrity and actuarial soundness, it is pertinent to capture consistent production amounts across various crops and diverse farming operations. If there is not a notice of loss filed when there is a quality loss, the AIP will not be able to capture the appropriate production amounts on the production worksheet that are required to elect the quality loss option. Without a notice of loss provision in place, AIPs will be inconsistent when determining acceptable production records that may qualify for the quality loss option, resulting in varying AIP determinations and disparate treatment amongst insureds.

When there is a payable loss, AIPs will submit the production report entries to FCIC using the Policy Acceptance Storage System (PASS). In a situation where there is a quality loss, but not a payable loss, AIPs will have the completed production worksheet in their internal loss files to get the proper production amounts required to elect the quality loss option. No change will be made.

Comment: A commenter stated the requirement to give the AIP notice of loss to allow replacement of post-quality actual yields for the previous crop year is currently only stated within section 36. Section 14 contains the requirements regarding notices a producer must provide to their AIP in the event of a loss. As this is implied to be a

function of the loss process, the provisions should be in section 14 as well, so the producer is provided proper communication of this requirement.

Response: FCIC agrees and is adding a new section 14(b)(6) to state the producer must give the AIP a notice of loss due to an insurable cause in the year of the crop loss to replace post-quality actual yields with actual yields prior to quality loss adjustment.

Comments Related To 85 FR 76420-76428 Published November 30, 2020

The second final rule with request for comment was published in the *Federal Register* on November 30, 2020, (85 FR 76420-76428) amending the Area Risk Protection Insurance (ARPI) Regulations; Common Crop Insurance Policy (CCIP), Basic Provisions; Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions (Sunflower Seed Crop Provisions); and Common Crop Insurance Regulations, Dry Pea Crop Insurance Provisions (Dry Pea Crop Provisions). Comments were received from three commenters. One from an individual who simply stated they agreed with the rule, one from a trade association, and one from an individual. The public comments received regarding the November 30, 2020, final rule with request for comment and FCIC's responses to the comments are as follows:

Comment: A commenter noted section 15(h)(7) deals with situations where a “planted” second crop follows a first insured crop. As such, it would not be applicable to the provisions of section 17(f)(4) in situations where both the 1st insured and 2nd crops were prevented from planting nor where a 1st insured crop was planted and a 2nd crop was prevented. It would therefore appear appropriate to add the text of section 15(h)(7) to section 17(f)(4).

Response: As stated above, FCIC is working with stakeholders to determine what change is appropriate in section 15(h)(7) and plans to make corresponding changes in section 17(f)(4). Any related change to the regulation will be in a future rulemaking.

Comment: A commenter noted in section 17(e)(2) that an “uninsured second

crop” would include: 1) A second crop planted after the Late Planting Period (LPP) or the Final Plant Date (if a LPP was not applicable); and 2) A second crop which an insured elected not to insure under the first and second crop provisions in order to preserve a 100% indemnity for the 1st insured crop. The commenter had program vulnerability concerns and suggested a clarification or that the provision be removed. The situation is rare, and the proposed remedy is unnecessary and has added significant complexity to the provision, along with increasing the likelihood the provisions will apply to situations other than those intended. This is due to the provision applying to every “uninsured 2nd crop” following a failed first insured crop.

Response: This change was made to address the concern that in this situation the same physical acres are subtracted twice from the overall prevented planting eligible acres. This occurrence is extremely rare, but in years where widespread prevented planting is prevalent, such as in 2019, the provision provides important coverage for producers. No change will be made.

Comment: A commenter recommended adding the phrase “practice” in section 17(f)(1)(iv) like section 17(f)(1)(i).

Response: FCIC will revise section 17(f)(1)(iv) for consistency.

Comment: A commenter suggested clarifying in section 17(f)(1) if proof of the rotation alone is sufficient or whether both proof of the rotation and inputs are required regarding the phrase “or that acreage was part of a crop rotation.”

Response: FCIC believes the wording is clear regarding the phrase “or that acreage was part of a crop rotation.” The word “or” being used at the beginning of this phrase means that proof of rotation alone is sufficient. No change will be made.

Comment: Regarding section 17(f)(8), a commenter requested a system be in place to support the increase in seeking and verifying this information for policies that have transferred between agents and AIPs.

Response: FCIC encourages producers to work with their agent in providing documentation. AIPs have access to data that can assist with verifying insurance history. There are other methods such as satellite imagery that may be beneficial when proving if a crop was planted and harvested.

Comment: A commenter disagreed with the change in section 17(f)(8) and stated it negatively impacted farmers in California by eliminating prevented planting payments to farmers who leased land that is fallowed, unless the fallowed land is farmed the next two years, regardless of water availability and other challenges inherent in production agriculture. The land will be eligible only if the entire leased acreage is in production in at least one year out of four. A commenter suggested to phase in the new “1 in 4” requirement over 4 years to allow farmers who use prevented planting coverage sufficient time to modify existing farming practices as needed (e.g., install irrigation systems, acquire water, and secure related financing).

Response: The “1 in 4” requirement applies specifically to physical acreage (land); not the producer, the lease, or the farming operation. No change will be made.

In addition to the changes described above, FCIC has made the following changes:

ARPI Basic Provisions and CCIP Basic Provisions

For both ARPI Basic Provisions (7 CFR 407) and CCIP Basic Provisions (7 CFR 457.8), FCIC is revising the definition of “veteran farmer or rancher” in section 1 to allow the spouse’s veteran status not to impact whether a person is considered a veteran farmer or rancher. The provisions define “person” as an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. The word “person” does not include the United States Government or any agency thereof. The provisions state all entity substantial beneficial interest holders must qualify individually as a veteran. The change

to the definition of “veteran farmer or rancher” will clarify the exception that allows a legal entity, comprised only of the veteran and their spouse, to qualify as a veteran farmer or rancher when a qualifying veteran has a non-veteran spouse. For example, a veteran starts farming and forms a corporation with their non-veteran spouse. The veteran meets the veteran farmer or rancher requirements, but the spouse is a non-veteran. With this change, their corporation would qualify as a veteran farmer or rancher.

ARPI Basic Provisions

Other changes applicable only to the ARPI Basic Provisions (7 CFR 407) are:

Section 1 – FCIC is revising the definition of “acreage reporting date” to replace the term “actuarial documents” with “Special Provisions.” This change is being made to be consistent with the CCIP Basic Provisions.

FCIC is removing the definition of “NASS” (National Agricultural Statistics Service) for greater transparency regarding the data used to determine area yield guarantees and indemnities, because FCIC no longer uses NASS data but instead RMA data. In addition to removing the definition, FCIC is removing any references to NASS data throughout the provisions. Therefore, FCIC is removing paragraph 15(e) and redesignating paragraphs (f) and (g) as (e) and (f).

CCIP Basic Provisions

Other changes applicable only to the CCIP Basic Provisions (7 CFR 457.8) are:

Section 34 - FCIC is adding a new section 34(a)(4)(ix) to allow Crop Provisions to have enterprise units (EU) by practice, type, or other insurance features. In 2018, FCIC developed the multi-county enterprise unit (MCEU) endorsement. For the 2020 crop year, EUs by cropping practice for following another crop and not following another crop (FAC/NFAC) were made available in select grain sorghum and soybean counties. For the 2021 crop year, when a producer elects and fails to qualify for EUs on both irrigation or cropping practices they have an additional option to keep EU on practice that

meets EU qualifications and have basic or optional units on the other practice that does not meet EU qualifications. For example, a producer elects EU for both FAC and NFAC cropping practices, but does not qualify for EU for both practices. If discovery for not qualifying is on or before the acreage reporting date, the producer has an additional option to elect an EU on one cropping practice and basic or optional units on the other cropping practice. FCIC continues to receive requests from stakeholders to add the EU structure for a crop or allow the EU structure on a different basis than currently allowed. FCIC continues to review these requests individually to determine the feasibility of implementing the EU request. With this change, FCIC will have the flexibility to make these subsequent EU changes in individual Crop Provisions.

Section 37 - FCIC is revising sections 37(c) and (e) to allow a producer to report acreage as certified organic, or as acreage in transition to organic, when the producer certifies that they have requested, in writing, a written certification or other written documentation from a certifying agent on or before the acreage reporting date (ARD). The producer may notify their insurance agent by phone, email, text, or other electronic communication method. Following the notification, the organic plan or certificate must be in place prior to coverage ending in accordance with the policy. The producer's acreage will remain insured under the practice reported on the acreage reporting date unless they have a loss. If the producer has a loss and does not have a certificate or plan in place at the time the claim is finalized, then the acreage will be insured under the practice for which it qualifies.

Currently, policy requires producers with certified organic or acreage in transition to organic to have written certification or written documentation from a certifying agent by the ARD which shows an organic plan is in effect for the acreage. Procedures allow that a certificate and plan must be in place each year to qualify for organic or organic transitional practices. A previous certificate or plan may be used to qualify for insurance

until a plan can be updated by a certifying agent.

The organic industry presented concerns to FCIC, Farm Service Agency, and Agricultural Marketing Service regarding producers' inability to have organic plans and certificates "in effect" by their crop insurance policy ARD due to COVID restrictions limiting travel and face to face interaction. To mitigate these concerns and provide flexibility, FCIC provided relief through Manager's Bulletins: MGR-20-0013 and MGR-20-0026 and is incorporating the Manager's Bulletins in this rule. With this change, FCIC recognizes the on-going challenges that the organic producers face and provides flexibility, while also ensuring the Federal crop insurance program continues to serve as a vital risk management tool and organic regulations remain in effect.

Effective Date and Notice and Comment

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

For major rules, the Congressional Review Act requires a delay to the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, this final rule is effective June 30, 2021. Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

Executive Orders 12866 and 13563

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all

costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, “Regulatory Planning and Review,” and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 13563.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the

relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under EO 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450 – Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563-0053.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720-2600 or 844-433-2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or email: OAC@usda.gov.

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List of Subjects

7 CFR Part 407

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

For the reasons discussed above, FCIC amends 7 CFR parts 407 and 457, effective for the 2022 and succeeding crop years for crops with a contract change date on or after June 30, 2021, and for the 2023 and succeeding crop years for all other crops, as follows:

PART 407— AREA RISK PROTECTION INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

2. Amend § 407.9 by:

a. In section 1:

- i. Revise the definition of “acreage reporting date”;
- ii. Remove the definition of “NASS”; and
- iii. Revise the definition of “veteran farmer or rancher”;

b. In section 15:

- i. Remove paragraph (e);
- ii. Redesignate paragraphs (f) and (g) as paragraphs (e) and (f); and
- iii. Revise redesignated paragraph (f).

The revisions read as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions

* * * * *

Acreage reporting date. The date contained in the Special Provisions by which you are required to submit your acreage report.

* * * * *

Veteran farmer or rancher.

(1) An individual who has served active duty in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve components; was discharged or released under conditions other than dishonorable; and:

- (i) Has not operated a farm or ranch;
- (ii) Has operated a farm or ranch for not more than 5 years; or
- (iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition; except in cases in which there is only a married couple, then a veteran and non-veteran spouse are considered a veteran farmer or rancher.

* * * * *

15. Yields

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(f) Yields used under this insurance program for a crop may be based on crop insurance data, other USDA data, or other data sources, if elected by FCIC.

* * * * *

PART 457 - COMMON CROP INSURANCE REGULATIONS

3. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

4. Amend § 457.8 as follows:

a. In section 1 of the “Common Crop Insurance Policy,” revise the definition of “veteran farmer or rancher”;

b. In section 14 of the “Common Crop Insurance Policy,” add paragraph (b)(6);

c. In section 15 of the “Common Crop Insurance Policy,” in paragraph (i)(3), add the phrase “the introductory paragraph of section” after the phrase “than determined in”;

d. In section 17 of the “Common Crop Insurance Policy,” revise paragraph (f)(1)(iv);

e. In section 34 of the “Common Crop Insurance Policy,” add paragraph (a)(4)(ix); and

f. In section 37 of the “Common Crop Insurance Policy,” revise paragraphs (c) and (e).

The additions and revisions read as follows:

§ 457.8 The application and policy.

* * * * *

Common Crop Insurance Policy

* * * * *

1. Definitions

* * * * *

Veteran farmer or rancher. (1) An individual who has served active duty in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve components; was discharged or released under conditions other than

dishonorable; and:

- (i) Has not operated a farm or ranch;
- (ii) Has operated a farm or ranch for not more than 5 years; or
- (iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition; except in cases in which there is only a married couple, then a veteran and non-veteran spouse are considered a veteran farmer or rancher.

* * * * *

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage

* * * * *

- (b) * * *

(6) You must give us notice in accordance with section 36(a)(3) to replace post-quality actual yields for previous crop years.

* * * * *

17. Prevented Planting

* * * * *

- (f) * * *

- (1) * * *

(iv) The acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you provide proof that you intended to plant another crop, crop type, or follow both practices on the acreage (including, but not limited to inputs purchased, applied or available to apply, or that acreage was part of a crop rotation).

* * * *

34. Units

(a) * *

(4) * *

(ix) You may elect enterprise units as allowed by the Crop Provisions if provided in the actuarial documents.

* * * *

37. Organic Farming Practices

* * * *

(c) You must provide the following organic records, as applicable:

(1) By the acreage reporting date, except as allowed by section 37(c)(2), you must have:

(i) For certified organic acreage, a written certification in effect from a certifying agent indicating the name of the entity certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (A certificate issued to a tenant may be used to qualify a landlord or other similar arrangement).

(ii) For transitional acreage, a certificate as described in section 37(c)(1)(i), or written documentation from a certifying agent indicating an organic plan is in effect for the acreage.

(iii) For certified organic and transitional acreage, records from the certifying agent showing the specific location of each field of certified organic, transitional, buffer zone, and acreage not maintained under organic management.

(2) If you do not meet the requirements in section 37(c)(1)(i) or (ii), you must provide documentation that you have requested, in writing, your written certification or organic plan by the acreage reporting date.

(i) Your certificate or plan must be in effect prior to the earlier of the end of the insurance period or when coverage ends as provided in section 11(b).

(ii) Your acreage will remain insured under the practice you reported on the acreage reporting date unless you have a loss. If you have a loss and do not have a certificate or plan in place at the time the claim is finalized in accordance with the applicable policy provisions, then your acreage will be insured under the practice for which it qualifies.

* * * * *

(e) If any acreage qualifies as certified organic or transitional acreage on the date you report such acreage, and such certification is subsequently revoked or suspended by the certifying agent, or the certifying agent does not consider the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

* * * * *

Richard H. Flournoy,
Acting Manager,
Federal Crop Insurance Corporation.

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